


TO: Planning Commission

CC: Lamar Outdoor Advertising
Robbie Carlson
Rick Peo

FROM: Derek Miller 

DATE: November 2, 2004

REF: CZ 04069: Text Amendment (Billboards)

This memo is in reference to the questions that arose at the October 27th Planning Commission hearing. The questions included: (1) what is the definition of nonconforming signs? (2) how does the state regulate billboards now? (3) do advertising easements exist along the Interstate? and (4) do billboards promote economic development?

1. The following excerpts were taken from the City of Lincoln Municipal Code.

27.69.320 Nonconforming Signs.

All nonconforming signs shall be brought into compliance when one or more of the following occurs:

(a) When a sign is damaged by accident or act of God or when any part is damaged in excess of fifty percent of its replacement value at the time such damage occurs.

(b) When a change or replacement of part of the sign structure occurs.

(c) When the sign is required to be moved because of a local, state, or federal project.

(d) When a painted wall sign is repainted.

Face changes will be allowed to a nonconforming sign. (Ord. 16735 §35; February 13, 1995; prior Ord. 14613 §39; March 9, 1987).

2. The State Department of Roads currently regulates off premises signs by the following (Taken from Title 410 - Nebraska Department of Roads - Right of Way Division):

002.05C4(b) Interstate System - Class III(off premises signs) Signs must be located in Cotton or Kerr Areas with spacing as follows:

002.05C4(b)(1) Inside the Corporate Limits of a Municipality - Signs along the Interstate Highways shall not be erected or maintained in any place where they are visible from the main-traveled way of the National System of Interstate and Defense highways, where they

are closer than two hundred and fifty feet to another sign structure on that side of the highway. Such spacing shall be measured along and parallel to the centerline of the Interstate.

002.05C4(b)(2) Outside the Corporate Limits of a Municipality - No sign may be located within interchange areas and within five hundred feet of the point where traffic enters or leaves the main-traveled way (measuring along the Interstate from the sign to the nearest widening constructed for the purpose of acceleration or deceleration of traffic movement to or from the main-traveled way) and no sign shall be erected so that it is located closer than five hundred feet to another sign structure on that side of the highway. Such spacing between signs shall be measured parallel to the centerline of the Interstate.

002.05C4(b)(3) Areas in which advertising control easements have been acquired: No Class III advertising sign, display or device shall be permitted.

002.01E COTTON AREA: Any area bounded on each end by two lines extended perpendicularly from the centerline of the Interstate Highway to both edges of the Interstate Right of Way. This area must have been a highway, road, or street public right of way on or before July 1, 1956. The area outside the Interstate Right of Way and extending six hundred and sixty feet beyond the edge of the Interstate and between the two extended perpendicular lines is a Cotton Area excluding any existing public right of way. (See typical examples in Attachment One).

002.01L KERR AREA: Kerr Area shall mean that area adjacent to an Interstate Highway where it traverses commercial or industrial zones, within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or where it traverses other areas where the land use as of September 21, 1959, was clearly established by State law as industrial or commercial.

A map is included showing the area along the interstate, the City of Lincoln's corporate limits prior to 1960, and the City of Lincoln's zoning jurisdiction prior to 1960.

There are also State regulations that limit size, spacing, and lighting of signs.

The Nebraska Department of Roads regulations on off premises signs are attached for further information.

3. The State Department of Roads indicates that they "believe" advertising easements were acquired at the time of the Interstate' construction for all of the land west of the L Street interchange in Omaha. However, they have no centralized records and cannot confirm this belief. One location was investigated, and an advertising easement was found owned by the State. (Attached)
4. It was suggested at the initial Planning Commission hearing on this issue that permitting new billboards along the Interstate can be important to local economic development efforts. Planning staff spoke to the Mayor's economic development coordinator and former economic development officer for the state, about this claim. He did not agree with the claim that adding billboards along the Interstate would be a stimulus to economic development. He concurred with the Planning staff that projecting an attractive visual image is important to his work of attracting and retaining the kind of higher paying jobs and workers. Other points regarding this issue:

Hundreds of communities across the country, including some of the highest growing communities in the country, have regulations that prohibit construction of any new billboards. These communities, often supported by their local Chambers of Commerce, have decided that a proliferation of these signs detracts from rather than supports their economic futures. Studies of communities that adopted more restrictive billboard regulations show that total retail and restaurant sales in the community were unaffected by those regulations.

The Public Opinion Survey of Planning and Development Issues in Lincoln and Lancaster County, conducted in November 2000 as part of the last update of the Comprehensive Plan, found a majority of residents agreeing that "Lincoln should place more emphasis on the physical appearance of the city, including managing signs, landscaping and architecture." This community concern was expressed at about the same time, when dozens of new billboards suddenly were erected along arterial streets and the City Council acted to amend the zoning ordinance and establish new restrictions that are now in effect.

Travel-oriented businesses located along the Interstate have existing advertising options. Lincoln's on-site business signs are quite liberal for the travel-oriented businesses that tend to cluster along highway corridors, and the State has a "logo" sign program that can be used to advertise travel-oriented services in a larger area beyond the corridor.

Hand-held electronic devices (PDAs), cell phones, and in-car information systems increasingly are being used to provide travel information, and future technology will bring further advances in this area. The State's 511 Travel Information System may be programmed in the future to include advertising for travel-oriented businesses.

Allowing more billboards along the Interstate would provide a very limited opportunity for a small proportion of the city's businesses to advertise their goods and services. In addition, many billboards are typically leased by national companies selling products and services that are not at all locally oriented.

The state roads department had told Omaha that they had acquired advertising easements along the entire length of I-80, and it turned out that they were wrong. The 18 new billboards in Omaha went up on properties that was not protected by easements. The State now indicates that they "believe" they have easements for all the land west of L Street in Omaha west to Wyoming. But they do not have copies of these easements and cannot verify their existence.

In the future, the Planning Department would be glad to be part of a community dialogue to determine if and where and what kind of additional advertising signage may be needed to promote visitor attractions, as the letter from the Chamber president suggests, and the sign ordinance can always be adjusted in the future for that purpose. In the meantime, however, the Planning Department still believes it is appropriate to move quickly and adopt these new restrictions, in order to avoid a "surprise" like Omaha's, and in order to place the issue of billboard regulation under local control where it belongs, instead of deferring to the state or federal governments.

For general information there approximately 190 billboards that are tracked by the city. (Attached list, informational purposes only) There are several hundred more that are located in the city's jurisdiction that are not documented.

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Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 3 - Sign Permits (Continued)

002.05 CLASS III SIGNS

002.05A Class III Signs are those signs located in zoned and unzoned commercial and industrial areas which are not classified as either Class I, Class II, Class IV or Class V Signs.

002.05B All signs located within urban areas and more than six hundred and sixty feet from the edge of the right of way of the HBCS are exempt from these Regulations.

002.05C Conforming Class III Signs - Restrictions and Requirements

002.05C1 All Class III Signs must obtain a permit from the Nebraska Department of Roads.

002.05C2 The lighting for Class III Signs must comply with the requirements set forth in Section 002.08 of these Rules and Regulations.

002.05C3 Class III Signs - Size Requirements.

002.05C3(a) The maximum area for any Class III advertising sign shall be one thousand square feet.

002.05C3(b) These Rules and Regulations shall not prevent the erection of a double faced, stacked, back-to-back, side-by-side or V-type construction with a maximum of two sign faces per side with the maximum area of one thousand square feet allowed for each side. Such signs must be physically connected and of substantially the same size and under the same ownership.

002.05C4 Class III Signs - Spacing Requirements.

002.05C4(a) Primary HBCS, except for the Interstate, System - Class III Signs must be located in properly zoned or unzoned areas with spacing as follows:

002.05C4(a)(1) Inside the Corporate Limits of a Municipality - The number of sign structures on the same side of the HBCS, except for the Interstate, within zoned or unzoned commercial or industrial areas shall not exceed the length of the frontage as measured along the centerline of the highway divided by one hundred feet, providing that structures shall be spaced at least one hundred feet apart. Such spacing shall be measured along and parallel to the centerline of the highway and providing further that no sign shall be permitted in an area fifty feet parallel to the existing right of way line and within fifty feet from the nearest edge of the right of way.

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Chapter 3 - Sign Permits (Continued)

002.05C4(a)(2) Outside the Corporate Limits of a Municipality - The number of sign structures on the same side of the HBCS, except for the Interstate, within zoned or unzoned commercial or industrial areas shall not exceed the length of the frontage as measured along the centerline of the highway divided by two hundred and fifty feet, providing that structures shall be spaced at least two hundred and fifty feet apart. Such spacing shall be measured along and parallel to the centerline of the highway and providing further that no sign shall be permitted in an area one hundred feet parallel to the existing right of way line and within one hundred feet from the nearest edge of the right of way.

002.05C4(a)(3) Exceptions - These spacing provisions do not apply to signs separated by a building or structure in such a manner that only one sign located within the prescribed spacing is visible from the highway at any one time.

002.05C4(b) Interstate System - Class III Signs must be located in Cotton or Kerr Areas with spacing as follows:

002.05C4(b)(1) Inside the Corporate Limits of a Municipality - Signs along the Interstate Highways shall not be erected or maintained in any place where they are visible from the main-traveled way of the National System of Interstate and Defense Highways, where they are closer than two hundred and fifty feet to another sign structure on that side of the highway. Such spacing shall be measured along and parallel to the centerline of the Interstate.

002.05C4(b)(2) Outside the Corporate Limits of a Municipality - No sign may be located within interchange areas and within five hundred feet of the point where traffic enters or leaves the main-traveled way (measuring along the Interstate from the sign to the nearest widening constructed for the purpose of acceleration or deceleration of traffic movement to or from the main-traveled way) and no sign shall be erected so that it is located closer than five hundred feet to another sign structure on that side of the highway. Such spacing between signs shall be measured parallel to the centerline of the Interstate.

002.05C4(b)(3) Areas in which advertising control easements have been acquired: No Class III advertising sign, display or device shall be permitted.

002.05D CHANGEABLE MESSAGE SIGN (CMS): An outdoor advertising sign, display or device which changes the message or copy on the sign by electronic or mechanical device or process, regardless of the technology used. CMS are considered outdoor advertising signs and subject to all applicable regulations and subject to the following:

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002.05D1 CMS must conform to general spacing requirements of 002.05C4 and the specific spacing requirements of 002.05D2.

002.05D2 No two (2) CMS structures may have sign facings erected less than five thousand (5000) feet apart measured from the center of the sign supports nearest the highway along a line parallel with the highway. CMS structures may be located on either side of the highway; however, each sign must only be visible from one direction of travel and must comply with the 5,000-foot spacing on each side.

002.05D3 CMS structures must conform to the size requirements of 002.05C3.

002.05D4 Conforming sign structures may be modified to a CMS upon compliance with CMS standards and obtaining a permit in accordance with 002.12.

002.05D5 Nonconforming sign structures will not be modified to a CMS.

002.05D6 Each advertisement displayed must remain fixed for at least ten (10) seconds. If there is more than one advertisement per face, then when any advertisement changes, the entire face shall remain fixed for ten (10) seconds.

002.05D7 When an advertisement is changed, it must be accomplished with an interval of two (2) seconds or less.

002.05D8 CMS must contain a default mechanism that will freeze the sign in one position if a malfunction occurs.

002.05D9 CMS shall be constructed as a single structure with only one face intended to be visible from each direction of travel, as viewed from a point 100 feet from the centerline of the sign measured horizontally along a line normal or perpendicular to the centerline of the highway.

002.05E NONCONFORMING CLASS III SIGNS: Class III Signs that do not meet the size, lighting, and spacing requirements, or are not located in properly zoned or unzoned commercial or industrial areas.

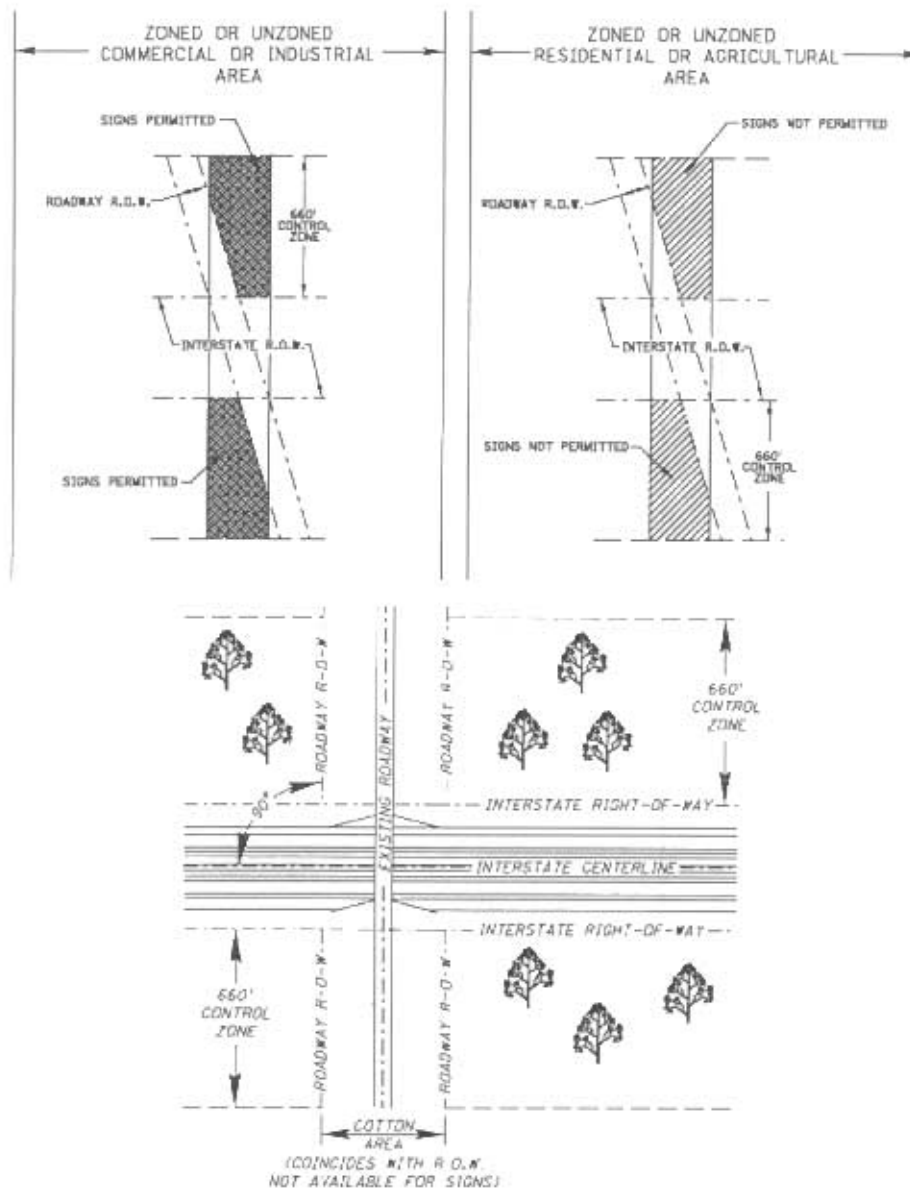
002.05E1 These rules and regulations shall not be construed to require the purchase of Nonconforming Class III Signs by the Nebraska Department of Roads if such signs were lawfully in existence on March 27, 1972, and located within zoned or unzoned commercial and industrial areas as defined in 39-1302 Neb.Rev.Stat.

002.05E2 Nonconforming Class III Signs, other than those described in Section 002.05E1 above, will be subject to purchase as required by the Nebraska Department of Roads as funds become available.

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Chapter 3 - Sign Permits (Continued)

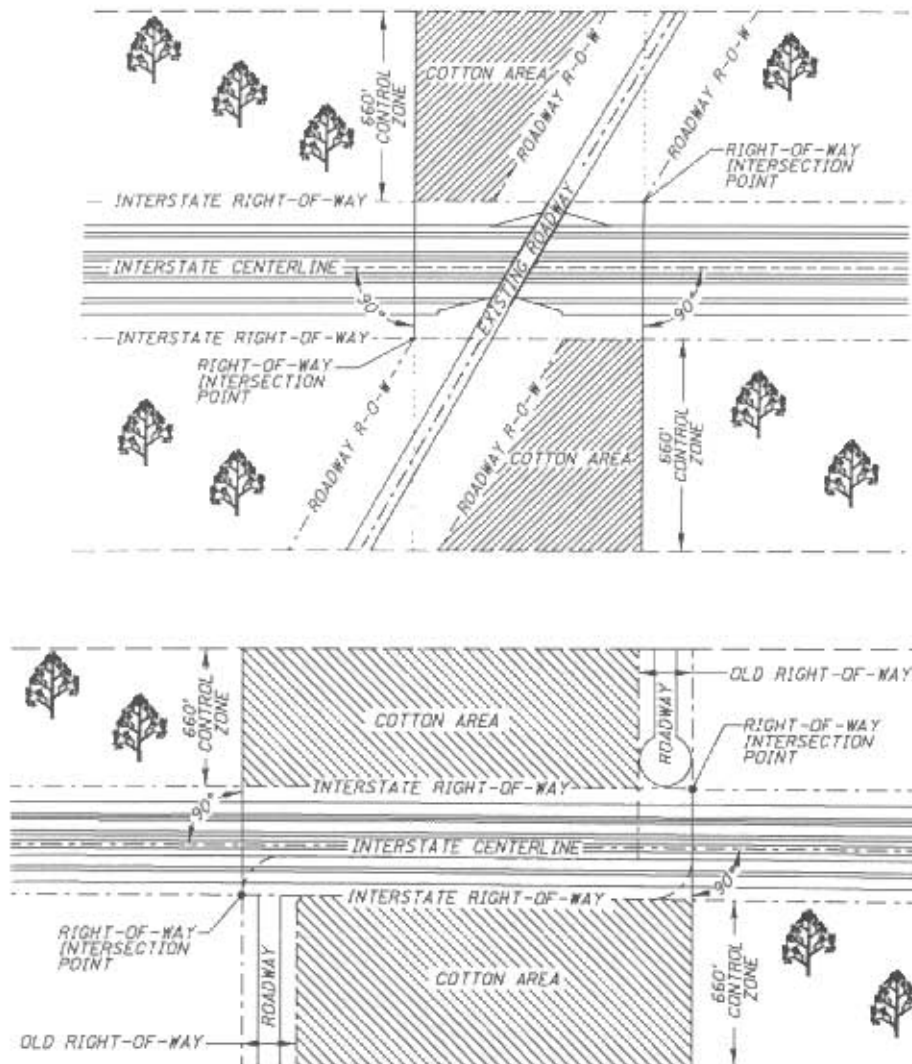
ATTACHMENT ONE - COTTON AREAS
1958 ACT AND 1965 ACT COMBINED



Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 3 - Sign Permits (Continued)

ATTACHMENT ONE (continued)



BILLBOARD LOCATIONS

2/18/04

3301 A St	1445 N 48th St	5001 O St	3835 South St
940 Calvert St	1530 N 48th St	7001 O ST	3855 South St
1421 Center Park Rd	-2436 N 48th St	7010 O St	140 Sun Valley Blvd
1000 Cornhusker Hwy	1401 N 56th St	1000 Oak St	203 Sun Valley Blvd
1301 Cornhusker Hwy	4945 N 56th St	5050 Old Cheney Rd	230 Sun Valley Blvd
1321 Cornhusker Hwy	6050 N 56th St	5601 Old Cheney Blvd	601 Sun Valley Blvd
1443 Cornhusker Hwy	501 N 66th St	2540 Park Blvd	1001 Sun Valley Blvd
1500 Cornhusker Hwy	624 N 66th St	2600 Park Blvd	3201 Superior St
1805 Cornhusker Hwy	1402 N 66th ST	700 Pioneers Blvd	3401 Superior St
1840 Cornhusker Hwy	900 N 70th St	900 Pioneers Blvd	3501 Superior St
2100 Cornhusker Hwy	3003 N 70th St	1528 Pioneers Blvd	3601 Superior St
2301 Cornhusker Hwy	3841 N 70th St	3321 Pioneers Blvd	5401 Superior St
2801 Cornhusker Hwy	801 N 7th St	4730 Pioneers Blvd	5555 Superior St
3010 Cornhusker Hwy	5550 N 7th ST	800 Q St	8805 US Hwy 6
3101 Cornhusker Hwy	5951 N 84th ST	1707 Q St	8900 US Hwy 6
3320 Cornhusker Hwy	6000 N 84th ST	940 R St	200 Van Dorn St
3740 Cornhusker Hwy	6040 N 84th ST	2537 Randolph St	250 Van Dorn St
4401 Cornhusker Hwy	6330 N 84th ST	3219 S 10th St	744 Van Dorn St
4545 Cornhusker Hwy	660 N St	2020 S 13th St	744 Van Dorn St
4925 Cornhusker Hwy	2032 N St	4911 S 14th St	800 Vine St
5401 Cornhusker Hwy	2300 N St	300 S 17th ST	1720 Vine ST
5450 Cornhusker Hwy	2001 NE Hwy 2	254 S 21st ST	1301 West Adams St
5580 Cornhusker Hwy	4903 Ne Hwy 2	1001 S 27th St	130 West Cornhusker Hwy
6219 Havelock Ave.	5001 Ne Hwy 2	4242 S 33rd St	400 West Cornhusker Hwy
1843 Holdredge St	5301 NE Hwy 2	4206 S 48th St	4301 West Hwy 34
5520 Holdredge St	5501 NE Hwy 2	5600 S 48th St	4801 West Hwy 34
2401 J St	4749 Normal Blvd	5700 S 56th St	101 West O st
926 L St	2403 NW 12th St	2700 S 70th St	210 West O St
1608 M St	2900 NW 12th ST	3802 S 9th ST	225 West O St
8300 N 120th ST	600 NW 56th St	2400 S Folsom St	235 West O st
2201 N 14th ST	118 O ST	850 S St	325 West O St
2401 N 14th St	720 O St	901 S St	335 West O St
800 N 17th St	1605 O St	3219 S. 10th St	401 West O St
335 N 27th ST	1742 O St	910 S. 26th St	755 West O st
611 N 27th St	1831 O ST	135 S. Coddington	760 West O St
701 N 27th St	2011 O ST	1220 Saltillo Rd	951 West O St
1101 N 27th ST	2055 O St	1221 Saltillo Rd	951 West O St
2534 N 27th ST	2132 O St	1400 Saltillo Rd	1000 West O st
2595 N 27th ST	2326 O ST	1010 South St	1044 West O St
2800 N 27th ST	2524 O St	1244 South St	1125 West O st
3700 N 27th ST	2701 O St	1300 South St	2115 West O St
3901 N 27th St	2911 O St	1351 South St	4710 West O St
4101 N 27th St	3111 O ST	1415 South St	
4300 N 27th St	3250 O St	1501 South St	
6101 N 27th ST	3301 O ST	1509 South St	
2815 N 33rd St	3328 O St	1530 South St	
508 N 46th St	4139 O St	1648 South St	
945 N 48th St	4247 O St	2760 South St	
1240 N 48th St	4501 O St	3201 South St	

T-22 (9L)

B-472b

Tract 4B

F A S E M S E T

THIS INDENTURE, Made this 11 day of July
 1962, Between Lena King and Helen M. Stein

hereinafter called the Grantors, whether one or more, and The State
 of Nebraska, hereinafter called the Grantee:

WITNESSETH, That the Grantors, in consideration of the sum
 of Twenty-Five and 00/100 (25.00) DOLLARS
 in hand paid, the receipt of which LaChereb acknowledged, and the
 further consideration that the premises herein conveyed shall be
 used for the control of outside advertising signs, displays, and
 other advertising devices adjacent to the National System of Inter-
 state and Defense Highways, do hereby grant, convey, and confirm
 unto the Grantee a permanent easement in and to a tract of land
 situated in Lancaster County, Nebraska, described as
 follows:

All that part of the Southeast Quarter of Section 36,
 Township 11 North, Range 6 East of the 6th M., Lancaster
 County, Nebraska, lying within 660 feet of the Interstate
 Highway right of way controlled access line as measured at
 right angles to the centerline of said Interstate Highway.

The Grantors, for themselves, their heirs, successors and
 assigns, do hereby covenant with the Grantee and its assigns, that
 the Grantors are lawfully seized of said premises and that the
 Grantors have good right and lawful authority to convey said
 permanent easement; and that the Grantors warrant and will defend
 the title to said premises against the lawful claims of all per-
 sons whomsoever.

IN WITNESS WHEREOF, The Grantors have hereunto set their
 hands this 11 day of July, 1962.

Grantors

Lena King
Helen M. Stein